

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2573 – Death Penalty (LSB 6219 HV)

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Fiscal Note Version – New

Description

House File 2573 imposes the death penalty for capital murder, which applies to offenders who have kidnapped, sexually assaulted, and then murdered a minor. The offender must be at least 18 years old at the time of the offense, and must be identified by forensic evidence (either DNA or fingerprints). The sentencing proceeding is conducted separately from the trial. The death penalty sentence is automatically reviewed by the Supreme Court. If affirmed by the Supreme Court, the penalty is accomplished by lethal injection. The death penalty may be imposed only for offenses which occur on or after January 1, 2007.

Background

1. Offenders are rarely convicted of all three crimes; approximately one offender every eight to 10 years is convicted of all three crimes (kidnapping, rape, and murder).
2. Death row offenders will be housed in the most secure area of the Clinical Care Unit at Fort Madison. Average daily costs are estimated to be \$120 per offender.
3. The executioner would be under contract, on a per diem basis.
4. The State's cost for one Class A felony conviction ranges from \$418,000 to \$760,000, depending upon prosecution and defense costs, and where the offender is housed in the State prison system. This figure includes court costs, prosecution and defense costs, housing costs at the county jail pending trial and sentencing, and the cost of housing the offender in the State prison system.
5. According to the U.S. Department of Justice, offenders' average length of stay on death row is 10 years, 11 months, before being executed.
6. Under current law for Class A felons, the length of stay in county jail for offenders is 331 days from the date of the incident occurring, to the date of commitment to prison. The average cost per day for county confinement is \$50.

Assumptions

1. There would be additional costs on the court system for more hearings and reviews.
2. There would be additional costs for the county to house the defendant during the pre-trial and trial phase, and for investigation and prosecution.
3. The defendant would not be eligible for pre-trial release. The defendant would remain in jail from the time of arrest until conviction. The average capital trial lasts approximately 30 days.
4. The county would incur additional costs for prosecuting the defendant.
5. There would be additional costs for the Attorney General's Office for prosecution. The State would handle the appeal, and would assist the county attorney during the prosecution phase.
6. There would be additional costs for indigent defense, as generally most capital defendants are indigent.

7. The estimated costs for the prosecution would be similar to the estimated costs for the defense.
8. The Department of Corrections (DOC) would incur additional costs for creating a death house, purchasing equipment, hiring an executioner, and housing the offender.
9. Offenders eligible for the death penalty under HF 2573 would have received a sentence of life in prison (Class A felony) under current law.

Correctional Impact

The correctional impact is not significant because the offender would have been serving a life sentence in the State prison system. Additionally, offenders are rarely convicted for all three crimes (kidnapping, rape, and murder), approximately one every eight to ten years.

Fiscal Impact

Department of Corrections Costs:

- Creation of a death house, including a waiting room, viewing room, and death chamber is estimated to be \$300,000 (one-time cost) at Fort Madison.
- Purchase of lethal injection equipment is estimated to range from \$40,000 to \$55,000 (one-time cost).
- Executioner's compensation is estimated to be \$250 per night.
- Ongoing operating costs are estimated to be \$120 per day per offender, or \$44,000 annually.

The cost estimate for the DOC is estimated to range from \$818,000 to \$833,000. This amount includes one-time costs of building a death house, purchasing equipment, contracting for an executioner, and the costs of housing the offender until the death sentence is implemented (\$120 per day x 3,985 days). This figure assumes the executioner will be paid for one night only. Since many executions are delayed by last minute stays for appeal, an executioner may be called more than once to complete the task.

The DOC's cost for housing one offender sentenced to life in prison ranges from \$339,000 to \$591,000, depending on where the offender is housed in the prison system. The net fiscal impact to the DOC for the death penalty ranges from \$242,000 to \$479,000.

Judicial Branch Costs:

The Judicial Branch has provided a cost estimate of approximately \$200,000 for one death penalty case. This estimate includes jury compensation and mileage, salary costs of the District Court judge and staff, providing a complete record and transcript of the trial court proceeding, and costs associated with the Supreme Court review. It also includes costs of trial, one appeal, one post conviction relief proceeding and appeal, plus automatic Supreme Court review. It does not include the costs of any interlocutory appeals.

The Judicial Branch's cost for holding a Class A felony trial is approximately \$2,300. The net fiscal impact to the Judicial Branch for hearing a death penalty case is approximately \$197,700.

County Jail Costs:

The county would hold the defendant in jail from the time of arrest until sentenced to prison. The average time served in jail is estimated to be 361 days (331 days pending trial + 30 days for the trial). County costs of confinement are estimated to be \$18,000 (361 days x \$50). County jail costs for housing one offender pending trial for a Class A felony are estimated to be \$17,000. The net fiscal impact to the county jail is estimated to be \$1,000.

Prosecution and Defense Costs:

Legal costs for the county and the Attorney General's Office are estimated to be \$250,000 each for the trial and penalty phase. One appeal would cost the Attorney General's Office \$100,000. One post conviction relief proceeding and appeal would cost another \$400,000. The county's cost for prosecution is estimated to be \$250,000 while the cost for the Attorney General's Office is estimated to be \$750,000. These costs include salaries of lawyers, support staff, investigators, and expert witnesses. The State Public Defender's Office would incur similar costs (\$1.0 million) for indigent defense. Prosecution and defense costs for one Class A felony trial are estimated to range from \$30,000 to \$75,000. The net fiscal impact for prosecution and defense ranges from \$925,000 to \$970,000 each for a death penalty case.

These estimates for prosecution and defense attorney and witness fees do not include costs associated with interlocutory appeals, and further appeals to the U.S. District, Appellate, and Supreme Courts. These estimates only include one post conviction relief proceeding and appeal; it is likely more than one proceeding will occur. These estimates only include one appeal from the trial court to the Supreme Court; it is likely more than one appeal will occur.

The net fiscal impact for implementing the death penalty in Iowa is approximately \$2.3 million to \$2.6 million for the first offender, as indicated in the Table below. These figures assume the offender would have received a sentence of life in prison under current law. These costs will be incurred over multiple fiscal years (approximately 10 years, 11 months) as the trial is held, the sentence is served, and the death penalty is imposed.

Fiscal Impact

Department	Death Penalty	Life in Prison	Net Increase
Corrections	\$818,000 to \$833,000 *	\$339,000 to \$591,000	\$242,000 to \$479,000
Judicial Branch	200,000	2,300	197,700
Public Defender	1,000,000	30,000 to 75,000	925,000 to 970,000
County Attorney and Attorney General's Office	1,000,000	30,000 to 75,000	925,000 to 970,000
County Jails	18,000	17,000	1,000
Total	<u>\$3,036,000 to \$3,051,000 *</u>	<u>\$418,300 to \$760,300</u>	<u>\$2,290,700 to \$2,617,700</u>

*Includes one-time costs.

Sources

Iowa Department of Corrections

Iowa Judicial Branch

Iowa Department of Human Rights, Criminal and Juvenile Justice Planning Division

Office of the Attorney General

Office of the State Public Defender

U.S. Department of Justice

March 7, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
